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*Attorneys for Defendants Bornstein Seafoods,
Inc. and Astoria Pacific Seafoods, LLC*

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BRAND LITTLE and ROBIN BURNS,
Individually and on Behalf of All Others
Similarly Situated,

Plaintiffs,

v.

PACIFIC SEAFOOD PROCUREMENT, LLC;
PACIFIC SEAFOOD PROCESSING, LLC;
PACIFIC SEAFOOD FLEET, LLC; PACIFIC
SEAFOOD DISTRIBUTION, LLC; PACIFIC
SEAFOOD USA, LLC; DULCICH, INC.;
PACIFIC SEAFOOD – EUREKA, LLC;
PACIFIC SEAFOOD – CHARLESTON, LLC;
PACIFIC SEAFOOD – WARRENTON, LLC;
PACIFIC SEAFOOD – NEWPORT, LLC;

Case No.: 3:23-cv-01098-AGT

**BORNSTEIN DEFENDANTS' ANSWER
TO PLAINTIFFS' SECOND AMENDED
CLASS ACTION COMPLAINT**

Judge: Honorable Alex G. Tse

1 PACIFIC SEAFOOD – BROOKINGS, LLC;
2 PACIFIC SEAFOOD – WESTPORT, LLC;
3 PACIFIC SURIMI – NEWPORT LLC; BLUE
4 RIVER SEAFOOD, INC.; SAFE COAST
5 SEAFOODS, LLC; SAFE COAST SEAFOODS
6 WASHINGTON, LLC; OCEAN GOLD
7 SEAFOODS, INC.; NOR-CAL SEAFOOD,
8 INC.; KEVIN LEE; AMERICAN SEAFOOD
9 EXP, INC.; CALIFORNIA SHELLFISH
10 COMPANY, INC.; ROBERT BUGATTO
11 ENTERPRISES, INC.; ALASKA ICE
12 SEAFOODS, INC.; LONG FISHERIES, INC.;
CAITO FISHERIES, INC.; CAITO
FISHERIES, LLC; SOUTHWIND FOODS,
LLC; FISHERMEN’S CATCH, INC.;
GLOBAL QUALITY FOODS, INC.; GLOBAL
QUALITY SEAFOOD LLC; OCEAN KING
FISH INC.; BORNSTEIN SEAFOODS, INC.;
ASTORIA PACIFIC SEAFOODS, LLC; and
DOES 30-60,

Defendants.

Defendants Bornstein Seafoods, Inc. and Astoria Pacific Seafoods, LLC (collectively, “Bornstein”) respectfully submit this Answer and provide additional and affirmative defenses in response to Plaintiffs’ Second Amended Class Action Complaint, dated February 7, 2025 (ECF 255) (“Second Amended Complaint”). Except to the extent specifically admitted herein, Bornstein denies each and every allegation contained in the Second Amended Complaint. By admitting that the Second Amended Complaint purports to characterize or quote particular documents, Bornstein does not admit the truth of any assertion in the referenced document.

Moreover, headings, footnotes, screenshots or other images, charts, graphs, and figures contained within the Second Amended Complaint are not substantive allegations to which an answer is required. Any allegations contained therein do not comply with Federal Rule of Civil Procedure 10(b), providing that allegations be stated “in numbered paragraphs, each limited as far as practicable to a single set of circumstances.” To the extent headings are deemed to be substantive allegations to which an answer is required, Bornstein denies the allegations. To the extent footnotes, screenshots or other images, charts, graphs, or figures in the Second Amended Complaint are deemed to be substantive allegations, then the response to the paragraph in which the footnote or figure is found is Bornstein’s response to the footnote, chart, graph or figure as well.

Bornstein by and for its Answer and Affirmative Defenses to Plaintiffs’ Second Amended Complaint states and alleges as follows:

INTRODUCTION

ANSWER TO PARAGRAPH 1: Bornstein admits that: there currently are more than 1,000 independent commercial crabbers who are licensed to land Dungeness crab in California, Washington, and Oregon; that Plaintiff Brand Little is a crabber; and that Plaintiff Robin Burns was married to a crabber, Kenny Burns. Bornstein denies the existence of a purported “Class” or that any class should be certified in this case. Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph on this basis. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 2: Bornstein admits that the Dungeness crab fishery is an important

fishery for certain Pacific Northwest commercial fishers. Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 3: Bornstein admits that the “ex vessel price” means the price off the boat. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 4: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 5: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 6: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 7: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 8: Bornstein denies the allegations in this Paragraph and each of its subparagraphs.

ANSWER TO PARAGRAPH 9: Bornstein lacks knowledge or information sufficient to admit or deny allegations regarding the basis for Plaintiffs’ assertions, and accordingly denies the allegations in this Paragraph pertaining to Plaintiffs’ basis for the Second Amended Complaint. Bornstein Seafood denies the remaining allegations in this Paragraph.

ANSWER TO PARAGRAPH 10: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 11: Bornstein denies the allegations in this Paragraph, and specifically denies that Bornstein engaged in any illegal conduct, that Plaintiffs have been injured, and that Plaintiffs are entitled to any compensation or injunctive relief whatsoever.

PARTIES

I. Plaintiffs

ANSWER TO PARAGRAPH 12: Bornstein admits that Plaintiff Little is an individual residing in Auburn, California who purports to be a commercial fisherman. Bornstein denies that it engaged in any unfair and illegal anticompetitive activities. Bornstein lacks knowledge or information sufficient to admit

1 or deny the other allegations in this Paragraph, and accordingly denies those allegations in this Paragraph
2 on this basis.

3 **ANSWER TO PARAGRAPH 13:** Bornstein admits that Plaintiff Burns is an individual residing in
4 Eureka, California whose late husband, Kenneth Burns was a fisherman who fished for Dungeness crab.
5 Bornstein lacks knowledge or information sufficient to admit or deny other allegations in this Paragraph,
6 and accordingly denies those allegations in this Paragraph on this basis. Bornstein denies that Bornstein
7 engaged in any unfair and illegal anticompetitive activities. Unless expressly admitted, Bornstein denies
8 the allegations in this Paragraph.

9 **II. Defendants**

10 **A. Pacific Seafood Defendants**

11 **ANSWER TO PARAGRAPH 14:** Bornstein lacks knowledge or information sufficient to admit or deny
12 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

13 **ANSWER TO PARAGRAPH 15:** Bornstein lacks knowledge or information sufficient to admit or deny
14 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

15 **ANSWER TO PARAGRAPH 16:** Bornstein lacks knowledge or information sufficient to admit or deny
16 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

17 **ANSWER TO PARAGRAPH 17:** Bornstein lacks knowledge or information sufficient to admit or deny
18 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

19 **ANSWER TO PARAGRAPH 18:** Bornstein lacks knowledge or information sufficient to admit or deny
20 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

21 **ANSWER TO PARAGRAPH 19:** Bornstein lacks knowledge or information sufficient to admit or deny
22 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

23 **ANSWER TO PARAGRAPH 20:** Bornstein lacks knowledge or information sufficient to admit or deny
24 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

25 **ANSWER TO PARAGRAPH 21:** Bornstein lacks knowledge or information sufficient to admit or deny
26 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

27 **ANSWER TO PARAGRAPH 22:** Bornstein lacks knowledge or information sufficient to admit or deny
28

the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 23: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 24: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 25: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 26: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 27: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 28: Bornstein admits only that the Second Amended Complaint purports to collectively refer to certain defendants as “Pacific Seafood.” Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 29: The Paragraph purports to quote Pacific Seafood’s website. The contents of the website and quotations from that website speak for themselves and do not require a response. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 30: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 31: , Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 32: Bornstein lacks knowledge or information sufficient to admit or deny

the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 33: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 34: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 35: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 36: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 37: This Paragraph purports to refer to litigation that is a matter of public record which speaks for itself and to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 38: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 39: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

B. Safe Coast Defendants

ANSWER TO PARAGRAPH 40: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 41: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 42: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 43: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 44: Bornstein admits only that the Second Amended Complaint purports

1 to collectively refer to certain defendants as “Safe Coast.” Bornstein lacks knowledge or information
 2 sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the
 3 allegations in this Paragraph on this basis.

4 **ANSWER TO PARAGRAPH 45:** Bornstein lacks knowledge or information sufficient to admit or deny
 5 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

6 **ANSWER TO PARAGRAPH 46:** Bornstein lacks knowledge or information sufficient to admit or deny
 7 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

8 **ANSWER TO PARAGRAPH 47:** Bornstein lacks knowledge or information sufficient to admit or deny
 9 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

10 **ANSWER TO PARAGRAPH 48:** Bornstein lacks knowledge or information sufficient to admit or deny
 11 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

12 **ANSWER TO PARAGRAPH 49:** Bornstein lacks knowledge or information sufficient to admit or deny
 13 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

14 **ANSWER TO PARAGRAPH 50:** Bornstein lacks knowledge or information sufficient to admit or deny
 15 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

16 **ANSWER TO PARAGRAPH 51:** Bornstein lacks knowledge or information sufficient to admit or deny
 17 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

18 **ANSWER TO PARAGRAPH 52:** The allegations in this Paragraph contain legal conclusions to which
 19 no response is required. To the extent a response is required, Bornstein lacks knowledge or information
 20 sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this
 21 Paragraph on this basis.

22 **C. Ocean Gold Defendant**

23 **ANSWER TO PARAGRAPH 53:** Bornstein lacks knowledge or information sufficient to admit or deny
 24 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

25 **ANSWER TO PARAGRAPH 54:** Bornstein lacks knowledge or information sufficient to admit or deny
 26 the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

27 **ANSWER TO PARAGRAPH 55:** Bornstein lacks knowledge or information sufficient to admit or deny
 28

the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 56: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 57: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 58: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

D. Nor-Cal Defendants

ANSWER TO PARAGRAPH 59: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 60: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 61: Bornstein admits only that the Second Amended Complaint purports to collectively refer to certain defendants as “Nor-Cal.” Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 62: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 63: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 64: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 65: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 66: The allegations in this Paragraph contain legal conclusions to which

no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

E. ASE Defendant

ANSWER TO PARAGRAPH 67: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 68: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 69: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 70: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 71: The allegations in this Paragraph contain for a legal conclusion, and accordingly no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny those allegations, and accordingly denies the allegations in this Paragraph on this basis.

F. Hallmark Defendants

ANSWER TO PARAGRAPH 72: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 73: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 74: Bornstein admits only that the Second Amended Complaint purports to collectively refer to certain defendants as “Hallmark.” Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 75: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 76: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 77: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 78: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 79: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny those allegations, and accordingly denies the allegations in this Paragraph on this basis.

G. Fathom Defendants

ANSWER TO PARAGRAPH 80: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 81: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 82: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 83: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 84: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 85: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 86: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 87: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 88: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

H. Caito Defendants

ANSWER TO PARAGRAPH 89: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 90: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 91: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 92: Bornstein admits only that the Second Amended Complaint purports to collectively refer to certain defendants as “Caito.” Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 93: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 94: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 95: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 96: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

I. Fisherman’s Catch Defendant

ANSWER TO PARAGRAPH 97: Bornstein lacks knowledge or information sufficient to admit or deny

the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 98: Bornstein admits only that the Second Amended Complaint purports to collectively refer to certain defendants as “Fishermen’s Catch.” Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 99: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 100: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 101: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

J. Global Quality Defendants

ANSWER TO PARAGRAPH 102: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 103: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 104: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 105: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

1 **ANSWER TO PARAGRAPH 106:** Bornstein lacks knowledge or information sufficient to admit or
2 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
3 basis.

4 **ANSWER TO PARAGRAPH 107:** Bornstein lacks knowledge or information sufficient to admit or
5 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
6 basis.

7 **ANSWER TO PARAGRAPH 108:** The allegations in this Paragraph contain legal conclusions to which
8 no response is required. To the extent a response is required, Bornstein lacks knowledge or information
9 sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this
10 Paragraph on this basis.

11 **K. Ocean King Defendant**

12 **ANSWER TO PARAGRAPH 109:** Bornstein lacks knowledge or information sufficient to admit or
13 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
14 basis.

15 **ANSWER TO PARAGRAPH 110:** Bornstein admits only that the Second Amended Complaint purports
16 to collectively refer to certain defendants as “Ocean King.” Bornstein lacks knowledge or information
17 sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the
18 allegations in this Paragraph on this basis.

19 **ANSWER TO PARAGRAPH 111:** Bornstein lacks knowledge or information sufficient to admit or
20 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
21 basis.

22 **ANSWER TO PARAGRAPH 112:** Bornstein lacks knowledge or information sufficient to admit or
23 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
24 basis.

25 **ANSWER TO PARAGRAPH 113:** The allegations in this Paragraph contain legal conclusions to which
26 no response is required. To the extent a response is required, Bornstein lacks knowledge or information
27 sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this
28

Paragraph on this basis.

L. Bornstein Defendants

ANSWER TO PARAGRAPH 114: Bornstein admits the allegations in this Paragraph.

ANSWER TO PARAGRAPH 115: Bornstein denies that Astoria Pacific Seafoods, LLC is a corporation, but admits that it is a Washington limited liability company with a principal place of business of 1001 Hilton Ave, Bellingham, Washington, and further admits that a filing with the Washington Secretary of State lists Bornstein Seafoods, Inc. as a governor of Astoria Pacific Seafoods, LLC.

ANSWER TO PARAGRAPH 116: Bornstein denies that Bornstein Seafood, Inc. and Astoria Pacific Seafood, LLC “collectively” do business, but admits that those entities are referred to collectively in the Second Amended Complaint as “Bornstein.” Bornstein admits that it owns a facility in Newport, Oregon, that is sometimes referred to as “Bornstein Newport.” Bornstein denies the remaining allegations in this Paragraph.

ANSWER TO PARAGRAPH 117: Bornstein admits that it employs Andrew Bornstein and Mike Shirley, and otherwise denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 118: Bornstein admits that it made ex vessel purchases of Dungeness crab in Astoria, Brookings, Garibaldi, and Newport, Oregon and Ilwaco, Washington at various times during the period from 2016 through the present. Bornstein denies the existence of a purported “class” or that a class should be certified in this case.

ANSWER TO PARAGRAPH 119: Bornstein denies the allegations in this Paragraph, including the existence of a purported “class” or that a class should be certified in this case.

ANSWER TO PARAGRAPH 120: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

M. Doe Defendants

ANSWER TO PARAGRAPH 121: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this

Paragraph.

III. Agents and Co-Conspirators

ANSWER TO PARAGRAPH 122: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 123: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 124: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 125: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 126: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 127: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 128: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 129: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 130: Bornstein denies the allegations in this Paragraph.

JURISDICTION, VENUE, AND COMMERCE

ANSWER TO PARAGRAPH 131: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein admits that the Court has subject matter jurisdiction to the extent Plaintiffs have suffered an injury cognizable under Article III of the United States Constitution.

ANSWER TO PARAGRAPH 132: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph, including that Plaintiffs suffered antitrust injury.

ANSWER TO PARAGRAPH 133: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein admits that venue in this District

1 is appropriate. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

2 **ANSWER TO PARAGRAPH 134:** Bornstein denies the allegations in this Paragraph, including that
3 Bornstein engaged in any anticompetitive conduct.

4 **ANSWER TO PARAGRAPH 135:** Bornstein denies the allegations in this Paragraph, including that
5 Bornstein engaged in price-fixing or any unlawful activities.

6 INTRADISTRICT ASSIGNMENT

7 **ANSWER TO PARAGRAPH 136:** The allegations in this Paragraph contain legal conclusions to which
8 no response is required. To the extent a response is required, Bornstein admits that assignment of this
9 case to the San Francisco Division of the United States District Court for the Northern District of
10 California is proper. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

11 FACTUAL ALLEGATIONS

12 I. **Pacific NW Area Ex Vessel Dungeness Crab Industry**

13 **ANSWER TO PARAGRAPH 137:** Bornstein admits that Dungeness crab is a species of shellfish found
14 in the Pacific Ocean and fished for human consumption. Unless expressly admitted, Bornstein denies the
15 allegations in this Paragraph.

16 **ANSWER TO PARAGRAPH 138:** Bornstein admits that Dungeness crab is enjoyed by consumers
17 along the West Coast, including during holidays, and that a portion of the catch is also exported live to
18 markets in China, Korea, Vietnam and other countries. Unless expressly admitted, Bornstein denies the
19 allegations in this Paragraph.

20 **ANSWER TO PARAGRAPH 139:** The first sentence of this Paragraph purports to characterize the
21 requirements for obtaining a commercial Dungeness crab fishing permit, which are legal conclusions to
22 which no response is required because each state's permitting requirements for commercial Dungeness
23 crab fishing speak for themselves. To the extent a response is required, Bornstein admits that commercial
24 Dungeness crab fishing requires a permit or a registration, the Dungeness crab fishery is what is known
25 as a "derby" fishery because there are no individual or vessel quotas and crabbers are permitted to catch
26 as many Dungeness crabs as possible during the season. Unless expressly admitted, Bornstein denies the
27 allegations in this Paragraph.

ANSWER TO PARAGRAPH 140: Bornstein admits the allegations in this Paragraph.

ANSWER TO PARAGRAPH 141: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 142: Bornstein admits the allegations as in this Paragraph.

ANSWER TO PARAGRAPH 143: Bornstein admits that ex vessel buyers of Dungeness crab for resale are required to hold a receiver license issued by the state in which they make ex vessel purchases. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 144: Bornstein admits that Bornstein and other buyers resell Dungeness crab either live, fresh cooked, in sections, frozen, or canned. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 145: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 146: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 147: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 148: Bornstein admits that it is a member of the West Coast Seafood Processors Association (“WCSPA”) and that WCSPA is a seafood industry trade association whose members operate in Washington, Oregon and California. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 149: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 150: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 151: Bornstein denies the allegations in this Paragraph.

II. Defendants’ Price-Fixing Cartel

1 A. **Defendants' Cartel Arose Out of a Marked Increase in Dungeness Ex Vessel Prices**
2 **Being Paid to Crabbers in the Pacific NW Area that Started in 2006/2007 Season and**
3 **Continued Through the 2014/15 Season**

4 **ANSWER TO PARAGRAPH 152:** Bornstein denies the allegations in this Paragraph.

5 **ANSWER TO PARAGRAPH 153:** Bornstein denies the allegations in this Paragraph.

6 **ANSWER TO PARAGRAPH 154:** Bornstein lacks knowledge or information sufficient to admit or
7 deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this
8 basis.

9 **ANSWER TO PARAGRAPH 155:** Bornstein admits that Nor-Cal, Ocean King, and ASE purchase
10 Dungeness crab ex vessel. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

11 **ANSWER TO PARAGRAPH 156:** Bornstein denies the allegations in this Paragraph.

12 **ANSWER TO PARAGRAPH 157:** Bornstein denies the allegations in this Paragraph.

13 **ANSWER TO PARAGRAPH 158:** Bornstein denies the allegations in this Paragraph.

14 **ANSWER TO PARAGRAPH 159:** Bornstein denies the allegations in this Paragraph.

15 **ANSWER TO PARAGRAPH 160:** Bornstein admits that there are crab buyers that lack a processing
16 operation in some ports, use independent hoists to offload the crab they purchase, and transport the crab
17 using refrigerated vans. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

18 **ANSWER TO PARAGRAPH 161:** Bornstein lacks knowledge or information sufficient to admit or
19 deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this
20 basis.

21 **ANSWER TO PARAGRAPH 162:** Bornstein admits that the ex vessel price received by a crabber for
22 a load of crab can soon be widely known among other crabbers who may then use that information to
23 negotiate with the same or different buyers to purchase their catches. Unless expressly admitted, Bornstein
24 denies the allegations in this Paragraph.

25 **ANSWER TO PARAGRAPH 163:** Bornstein lacks knowledge or information sufficient to admit or
26 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
27 basis.

28 **ANSWER TO PARAGRAPH 164:** Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 165: Bornstein denies that it entered into any unlawful agreement with

other ex vessel buyers. Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 166: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 167: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 168: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 169: Bornstein lacks knowledge or information sufficient to admit or deny the allegations as in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 170: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies those allegations on this basis.

ANSWER TO PARAGRAPH 171: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 172: Bornstein denies the allegations in this Paragraph.

B. Defendants Have Agreed to Allow Pacific Seafood to Set the Opening Price, which Has Resulted in Delayed Opening and a Lower Opening Price, which Is the Price at which a Large Portion of the Season's Catch Is Traditionally Sold and Which Sets the Baseline Price for the Remainder of the Season

ANSWER TO PARAGRAPH 175: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 176: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 177: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 178: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 179: Bornstein denies the allegations in this Paragraph.

1 **1. 2019/20 Pacific NW Area Dungeness Crab Season**

2 **ANSWER TO PARAGRAPH 180:** Bornstein admits the existence of a document containing the
3 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
4 allegations in this Paragraph.

5 **ANSWER TO PARAGRAPH 181:** Bornstein admits the existence of a document containing the
6 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
7 allegations in this Paragraph.

8 **ANSWER TO PARAGRAPH 182:** Bornstein admits the existence of a document containing the
9 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
10 allegations in this Paragraph.

11 **ANSWER TO PARAGRAPH 183:** Bornstein admits the existence of a document containing the
12 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
13 allegations in this Paragraph.

14 **ANSWER TO PARAGRAPH 184:** Bornstein admits the existence of a document containing the
15 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
16 allegations in this Paragraph.

17 **ANSWER TO PARAGRAPH 185:** Bornstein denies the allegations in this Paragraph.

18 **2. 2020/21 Pacific NW Area Dungeness Crab Season**

19 **ANSWER TO PARAGRAPH 186:** Bornstein denies the allegations in this Paragraph.

20 **ANSWER TO PARAGRAPH 187:** Bornstein denies the allegations in this Paragraph.

21 **ANSWER TO PARAGRAPH 188:** Bornstein admits the existence of a document containing the
22 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
23 allegations in this Paragraph.

24 **ANSWER TO PARAGRAPH 189:** Bornstein admits the existence of a document containing the
25 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
26 allegations in this Paragraph.

27 **ANSWER TO PARAGRAPH 190:** Bornstein admits the existence of a document containing the
28 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the

allegations in this Paragraph.

ANSWER TO PARAGRAPH 191: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 192: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 193: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 194: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

3. **2021/22 Pacific NW Area Dungeness Crab Season**

ANSWER TO PARAGRAPH 195: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 196: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 197: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 198: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 199: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

4. **2022/23 Pacific NW Area Dungeness Crab Season**

ANSWER TO PARAGRAPH 198: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 199: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 200: Bornstein lacks knowledge or information sufficient to admit or

1 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
2 basis.

3 **ANSWER TO PARAGRAPH 201:** Bornstein denies the allegations in this Paragraph.

4 **ANSWER TO PARAGRAPH 202:** Bornstein lacks knowledge or information sufficient to admit or
5 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
6 basis.

7 **ANSWER TO PARAGRAPH 203:** Bornstein lacks knowledge or information sufficient to admit or
8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
9 basis.

10 **ANSWER TO PARAGRAPH 204:** Bornstein lacks knowledge or information sufficient to admit or
11 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
12 basis.

13 **ANSWER TO PARAGRAPH 205:** Bornstein denies the allegations in this Paragraph.

14 **ANSWER TO PARAGRAPH 206:** The California Department of Fish and Wildlife's announcement
15 referenced in the first sentence of this Paragraph speaks for itself and does not require a response.
16 Bornstein admits that the California Department of Fish and Wildlife announced that the Dungeness crab
17 season for California ports would open on December 31, 2022. Bornstein denies the allegations in the
18 final sentence in this Paragraph. Unless expressly admitted, Bornstein denies the allegations in this
19 Paragraph.

20 **ANSWER TO PARAGRAPH 207:** Bornstein denies the allegations in the first sentence in this
21 Paragraph. Bornstein lacks knowledge or information sufficient to admit or deny the remaining
22 allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph on this
23 basis.

24 **ANSWER TO PARAGRAPH 208:** Bornstein lacks knowledge or information sufficient to admit or
25 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
26 basis.

27 **ANSWER TO PARAGRAPH 209:** Bornstein lacks knowledge or information sufficient to admit or
28

1 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
2 basis.

3 **ANSWER TO PARAGRAPH 210:** Bornstein lacks knowledge or information sufficient to admit or
4 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
5 basis.

6 **ANSWER TO PARAGRAPH 211:** Bornstein denies the allegation of the existence of any cartel or price
7 fixing agreement. Bornstein lacks knowledge or information sufficient to admit or deny the remaining
8 allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph on this
9 basis.

10 **ANSWER TO PARAGRAPH 212:** Bornstein lacks knowledge or information sufficient to admit or
11 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
12 basis.

13 **ANSWER TO PARAGRAPH 213:** Bornstein lacks knowledge or information sufficient to admit or
14 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
15 basis.

16 **ANSWER TO PARAGRAPH 214:** Bornstein lacks knowledge or information sufficient to admit or
17 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
18 basis.

19 **ANSWER TO PARAGRAPH 215:** Bornstein lacks knowledge or information sufficient to admit or
20 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
21 basis.

22 **ANSWER TO PARAGRAPH 216:** Bornstein lacks knowledge or information sufficient to admit or
23 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
24 basis.

25 **ANSWER TO PARAGRAPH 217:** Bornstein lacks knowledge or information sufficient to admit or
26 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
27 basis.

1 **ANSWER TO PARAGRAPH 218:** Bornstein lacks knowledge or information sufficient to admit or
2 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
3 basis.

4 **ANSWER TO PARAGRAPH 219:** Bornstein lacks knowledge or information sufficient to admit or
5 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
6 basis.

7 **ANSWER TO PARAGRAPH 220:** Bornstein lacks knowledge or information sufficient to admit or
8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
9 basis.

10 **5. 2023/24 Pacific NW Area Dungeness Crab Season**

11 **ANSWER TO PARAGRAPH 221:** Bornstein lacks knowledge or information sufficient to admit or
12 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
13 basis.

14 **ANSWER TO PARAGRAPH 222:** Bornstein lacks knowledge or information sufficient to admit or
15 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
16 basis.

17 **ANSWER TO PARAGRAPH 223:** Bornstein lacks knowledge or information sufficient to admit or
18 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
19 basis.

20 **ANSWER TO PARAGRAPH 224:** Bornstein lacks knowledge or information sufficient to admit or
21 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
22 basis.

23 **ANSWER TO PARAGRAPH 225:** Bornstein lacks knowledge or information sufficient to admit or
24 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
25 basis.

26 **ANSWER TO PARAGRAPH 226:** Bornstein admits only that Mike Shirley attended the “2023
27 Dungeness Crab Price Negotiations” organized by the Oregon Department of Agriculture. Unless
28

expressly admitted, Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 227: Bornstein admits only that Mike Shirley attended the “2023 Dungeness Crab Price Negotiations” organized by the Oregon Department of Agriculture. Unless expressly admitted, Bornstein denies the allegations in this Paragraph..

ANSWER TO PARAGRAPH 228: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 229: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

C. **After the Opening, Defendants Closely Coordinate With One Another on Ex Vessel Prices**

ANSWER TO PARAGRAPH 230: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 231: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 232: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 233: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 234: Bornstein admits the existence of a document containing the language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 235: Bornstein admits the existence of a document containing the language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 236: Bornstein admits the existence of a document containing the language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 237: Bornstein admits the existence of a document containing the language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the

1 allegations in this Paragraph.

2 **ANSWER TO PARAGRAPH 238:** Bornstein admits the existence of a document containing the
3 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
4 allegations in this Paragraph.

5 **ANSWER TO PARAGRAPH 239:** Bornstein denies the allegations in the first sentence of this
6 Paragraph. Bornstein lacks knowledge or information sufficient to admit or deny the allegations in the
7 second sentence of this Paragraph, and accordingly denies the allegations in the second sentence of this
8 Paragraph on this basis.

9 **ANSWER TO PARAGRAPH 240:** Bornstein denies the allegations in this Paragraph.

10 **ANSWER TO PARAGRAPH 241:** Bornstein admits the existence of a document containing the
11 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
12 allegations in this Paragraph.

13 **ANSWER TO PARAGRAPH 242:** Bornstein admits the existence of a document containing the
14 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
15 allegations in this Paragraph.

16 **ANSWER TO PARAGRAPH 243:** Bornstein admits the existence of a document containing the
17 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
18 allegations in this Paragraph.

19 **ANSWER TO PARAGRAPH 244:** Bornstein admits the existence of a document containing the
20 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
21 allegations in this Paragraph.

22 **ANSWER TO PARAGRAPH 245:** Bornstein admits the existence of a document containing the
23 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
24 allegations in this Paragraph.

25 **ANSWER TO PARAGRAPH 246:** Bornstein admits the existence of a document containing the
26 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
27 allegations in this Paragraph.

1 **ANSWER TO PARAGRAPH 247:** Bornstein admits the existence of a document containing the
2 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
3 allegations in this Paragraph.

4 **ANSWER TO PARAGRAPH 248:** Bornstein admits the existence of a document containing the
5 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
6 allegations in this Paragraph.

7 **ANSWER TO PARAGRAPH 249:** Bornstein admits the existence of a document containing the
8 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
9 allegations in this Paragraph.

10 **ANSWER TO PARAGRAPH 250:** Bornstein admits the existence of a document containing the
11 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
12 allegations in this Paragraph.

13 **ANSWER TO PARAGRAPH 251:** Bornstein admits the existence of a document containing the
14 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
15 allegations in this Paragraph.

16 **ANSWER TO PARAGRAPH 252:** Bornstein denies the allegations in this Paragraph.

17 **ANSWER TO PARAGRAPH 253:** Bornstein admits the existence of a document containing the
18 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
19 allegations in this Paragraph.

20 **ANSWER TO PARAGRAPH 254:** Bornstein admits the existence of a document containing the
21 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
22 allegations in this Paragraph.

23 **ANSWER TO PARAGRAPH 255:** Bornstein admits the existence of a document containing the
24 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
25 allegations in this Paragraph.

26 **ANSWER TO PARAGRAPH 256:** Bornstein admits the existence of a document containing the
27 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
28

allegations in this Paragraph.

ANSWER TO PARAGRAPH 257: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 258: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 259: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

D. Defendants Have Consolidated Their Control of the Pacific NW Area Ex Vessel Dungeness Crab Market by Purchasing and in Many Cases Shutting Down Erstwhile Competitors, Entering Into Exclusivity Arrangements with Port Operators, and Limiting Non-Cartel Members' Access to Hoists

1. Pacific Seafood

ANSWER TO PARAGRAPH 260: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 261: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 262: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 263: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 264: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 265: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this

1 basis.

2 **ANSWER TO PARAGRAPH 266:** Bornstein lacks knowledge or information sufficient to admit or
3 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
4 basis.

5 **ANSWER TO PARAGRAPH 267:** Bornstein lacks knowledge or information sufficient to admit or
6 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
7 basis.

8 **ANSWER TO PARAGRAPH 268:** Bornstein lacks knowledge or information sufficient to admit or
9 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
10 basis.

11 **ANSWER TO PARAGRAPH 269:** Bornstein lacks knowledge or information sufficient to admit or
12 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
13 basis.

14 **ANSWER TO PARAGRAPH 270:** Bornstein lacks knowledge or information sufficient to admit or
15 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
16 basis.

17 **ANSWER TO PARAGRAPH 270:** Bornstein lacks knowledge or information sufficient to admit or
18 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
19 basis.

20 **ANSWER TO PARAGRAPH 271:** Bornstein lacks knowledge or information sufficient to admit or
21 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
22 basis.

23 **ANSWER TO PARAGRAPH 272:** Bornstein lacks knowledge or information sufficient to admit or
24 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
25 basis.

26 **2. Ilwaco Landing Fishermen**

27 **ANSWER TO PARAGRAPH 273:** Bornstein admits only that on or around February 25, 2022, it
28

1 acquired Fishpeople Seafood. Bornstein lacks knowledge or information sufficient to admit or deny the
2 remaining allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph
3 on this basis.

4 **ANSWER TO PARAGRAPH 274:** Bornstein lacks knowledge or information sufficient to admit or
5 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on that
6 basis.

7 **ANSWER TO PARAGRAPH 275:** Bornstein admits the allegations in this Paragraph.

8 **ANSWER TO PARAGRAPH 276:** Bornstein admits only that it operates in Ilwaco, Washington.
9 Bornstein lacks knowledge or information sufficient to admit or deny the remaining allegations in this
10 Paragraph, and accordingly denies the remaining allegations in this Paragraph on this basis.

11 **3. Trinidad**

12 **ANSWER TO PARAGRAPH 277:** Bornstein lacks knowledge or information sufficient to admit or
13 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
14 basis.

15 **ANSWER TO PARAGRAPH 278:** Bornstein lacks knowledge or information sufficient to admit or
16 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
17 basis.

18 **ANSWER TO PARAGRAPH 279:** Bornstein lacks knowledge or information sufficient to admit or
19 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
20 basis.

21 **ANSWER TO PARAGRAPH 280:** Bornstein lacks knowledge or information sufficient to admit or
22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
23 basis.

24 **4. Eureka**

25 **ANSWER TO PARAGRAPH 281:** Bornstein lacks knowledge or information sufficient to admit or
26 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
27 basis.

ANSWER TO PARAGRAPH 282: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 283: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 284: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 285: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

E. To Eliminate Price Pressure Formerly Created by Out of Port Buyers, Defendants Have Agreed to Buy and Sell “Out the Back Door”

ANSWER TO PARAGRAPH 286: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 287: Bornstein denies the allegations in this Paragraph.

1. South Bend

ANSWER TO PARAGRAPH 288: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 289: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

2. Caito

ANSWER TO PARAGRAPH 290: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 291: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 292: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

3. San Francisco

ANSWER TO PARAGRAPH 293: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 294: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, accordingly denies the allegations in this Paragraph on this basis.

4. Crescent City

ANSWER TO PARAGRAPH 295: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 296: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 297: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 298: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

F. Defendants Aggressively Coerce Compliance by Each Other by and by Other Buyers with the Agreed Upon Pricing

1. During the 2022/23 and 2023/24 Seasons, a New Buyer Sought to Capture Market Share by Offering Higher Prices; Defendants Sought to Bring Him into the Cartel and When This Failed Inflicted Repeated Punishments

ANSWER TO PARAGRAPH 300: Bornstein lacks knowledge or information sufficient to admit or

1 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
2 basis.

3 **ANSWER TO PARAGRAPH 301:** Bornstein denies the allegations in this Paragraph.

4 a. **January 2023: Nor-Cal's Kevin Lee and Pacific Seafood's Frank**
5 **Dulcich Solicited Confidential Buyer Informant #1 to Participate in**
6 **Cartel, Then Punished him When He Refused**

7 **ANSWER TO PARAGRAPH 302:** Bornstein lacks knowledge or information sufficient to admit or
8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
9 basis.

10 **ANSWER TO PARAGRAPH 303:** Bornstein lacks knowledge or information sufficient to admit or
11 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
12 basis.

13 **ANSWER TO PARAGRAPH 304:** Bornstein lacks knowledge or information sufficient to admit or
14 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
15 basis.

16 **ANSWER TO PARAGRAPH 305:** Bornstein lacks knowledge or information sufficient to admit or
17 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
18 basis.

19 **ANSWER TO PARAGRAPH 306:** Bornstein denies the allegation in the Paragraph of the purported
20 existence of any cartel. Bornstein lacks knowledge or information sufficient to admit or deny the
21 remaining allegations in this Paragraph, and accordingly denies the remaining allegations in this Paragraph
22 on this basis.

23 b. **In Early 2023, Safe Coast's Max Boland Tried to Get Confidential**
24 **Buyer Informant to Toe the Cartel's Line on Ex Vessel Prices Set by**
25 **Pacific Seafood**

26 **ANSWER TO PARAGRAPH 307:** Bornstein lacks knowledge or information sufficient to admit or
27 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
28 basis.

ANSWER TO PARAGRAPH 308: Bornstein lacks knowledge or information sufficient to admit or

1 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
2 basis.

3 c. February/March 2023: In Response to Confidential Buyer Informant
4 #1's Publicized Offer of a Higher Ex Vessel Price, Multiple Cartel
5 Members Told Confidential Buyer Informant #1 to Lower His Ex
6 Vessel Price

7 ANSWER TO PARAGRAPH 309: Bornstein lacks knowledge or information sufficient to admit or
8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
9 basis.

10 ANSWER TO PARAGRAPH 310: Bornstein lacks knowledge or information sufficient to admit or
11 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
12 basis.

13 ANSWER TO PARAGRAPH 311: Bornstein lacks knowledge or information sufficient to admit or
14 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
15 basis.

16 d. April/May 2023: More Cartel Members Tell Confidential Buyer
17 Informant to Lower His Ex Vessel Price

18 ANSWER TO PARAGRAPH 312: Bornstein lacks knowledge or information sufficient to admit or
19 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
20 basis.

21 ANSWER TO PARAGRAPH 313: Bornstein lacks knowledge or information sufficient to admit or
22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
23 basis.

24 e. July/August 2023: Pacific Seafood Interfere in Confidential
25 Informant's Effort to Establish a Buyer Operation in Eureka

26 ANSWER TO PARAGRAPH 314: Bornstein lacks knowledge or information sufficient to admit or
27 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
28 basis.

ANSWER TO PARAGRAPH 315: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 316: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 299: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

f. **August 2023: Bornstein's Andrew Bornstein and Mike Shirley Offer Confidential Buyer Informant Significant Benefits if He Joins the Cartel in the up Coming Season**

ANSWER TO PARAGRAPH 300: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 301: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 302: Bornstein denies the allegations in this Paragraph.

g. **Early/Mid-December 2023: Pacific Seafood's Brett Hester Threatened Confidential Buyer Informant #1 After He Did Not Comply With Pacific Seafood's Opening Price Instruction**

ANSWER TO PARAGRAPH 303: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 304: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 305: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

h. **Late December 2023: Nor-Cal's Kevin Lee Again Sought to Bring Confidential Buyer Informant #1 into the Cartel**

ANSWER TO PARAGRAPH 306: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 307: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 308: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 309: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

i. **December 2023/January 2024: Pacific Seafood Instructs Other Defendants Not to Do Business With Confidential Buyer Informant #1**

ANSWER TO PARAGRAPH 310: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 311: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 312: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

j. **Early-January 2024: Confidential Buyer Informant #1 Is Threatened by Cartel Members for Raising Ex Vessel Prices and Has Business Deals Interfered With as Punishment**

ANSWER TO PARAGRAPH 313: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

1 **ANSWER TO PARAGRAPH 314:** Bornstein lacks knowledge or information sufficient to admit or
 2 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 3 basis.

4 **ANSWER TO PARAGRAPH 315:** Bornstein lacks knowledge or information sufficient to admit or
 5 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 6 basis.

7 **ANSWER TO PARAGRAPH 316:** Bornstein lacks knowledge or information sufficient to admit or
 8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 9 basis.

10 **ANSWER TO PARAGRAPH 317:** Bornstein denies the existence of any agreement on price, and
 11 otherwise lacks knowledge or information sufficient to admit or deny the remaining allegations in this
 12 Paragraph, and accordingly denies the remaining allegations in this Paragraph on this basis.

13 **ANSWER TO PARAGRAPH 318:** Bornstein lacks knowledge or information sufficient to admit or
 14 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 15 basis.

16 k. **January 2024: Defendants Take a Series of Actions in Charleston, OR**
 17 **to Punish Buyer Informant #1 and Drive Him Out of Port**

18 **ANSWER TO PARAGRAPH 319:** Bornstein lacks knowledge or information sufficient to admit or
 19 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 20 basis.

21 **ANSWER TO PARAGRAPH 320:** Bornstein lacks knowledge or information sufficient to admit or
 22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 23 basis.

24 **ANSWER TO PARAGRAPH 321:** Bornstein lacks knowledge or information sufficient to admit or
 25 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 26 basis.

27 **ANSWER TO PARAGRAPH 322:** Bornstein lacks knowledge or information sufficient to admit or
 28 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this

1 basis.

2 **ANSWER TO PARAGRAPH 323:** Bornstein lacks knowledge or information sufficient to admit or
3 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
4 basis.

5 **ANSWER TO PARAGRAPH 324:** Bornstein lacks knowledge or information sufficient to admit or
6 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
7 basis.

8 **ANSWER TO PARAGRAPH 325:** Bornstein lacks knowledge or information sufficient to admit or
9 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
10 basis.

11 **ANSWER TO PARAGRAPH 326:** Bornstein lacks knowledge or information sufficient to admit or
12 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
13 basis.

14 **ANSWER TO PARAGRAPH 327:** Bornstein lacks knowledge or information sufficient to admit or
15 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
16 basis.

17 **ANSWER TO PARAGRAPH 328:** Bornstein lacks knowledge or information sufficient to admit or
18 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
19 basis.

20 **ANSWER TO PARAGRAPH 329:** Bornstein lacks knowledge or information sufficient to admit or
21 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
22 basis.

23 **ANSWER TO PARAGRAPH 330:** Bornstein lacks knowledge or information sufficient to admit or
24 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
25 basis.

26 **ANSWER TO PARAGRAPH 331:** Bornstein lacks knowledge or information sufficient to admit or
27 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
28

1 basis.

2 **ANSWER TO PARAGRAPH 332:** Bornstein lacks knowledge or information sufficient to admit or
 3 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 4 basis.

5 1. **Mid/Late-January 2024: Representatives of Defendants and Other Co-**
 6 **Conspirators Met at San Francisco's Pier 45 and Devised a Plan to Run**
 7 **Confidential Buyer Informant #1 Out of Business**

8 **ANSWER TO PARAGRAPH 333:** Bornstein lacks knowledge or information sufficient to admit or
 9 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 10 basis..

11 **ANSWER TO PARAGRAPH 334:** Bornstein lacks knowledge or information sufficient to admit or
 12 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 13 basis.

14 **ANSWER TO PARAGRAPH 335:** Bornstein lacks knowledge or information sufficient to admit or
 15 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 16 basis.

17 **ANSWER TO PARAGRAPH 336:** Bornstein lacks knowledge or information sufficient to admit or
 18 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 19 basis.

20 **ANSWER TO PARAGRAPH 337:** Bornstein lacks knowledge or information sufficient to admit or
 21 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 22 basis.

23 **ANSWER TO PARAGRAPH 338:** Bornstein lacks knowledge or information sufficient to admit or
 24 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 25 basis.

26 **ANSWER TO PARAGRAPH 339:** Bornstein lacks knowledge or information sufficient to admit or
 27 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 28 basis.

ANSWER TO PARAGRAPH 340: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 341: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis..

ANSWER TO PARAGRAPH 342: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

2. **Other Buyers Have Also Been Threatened by Defendants About Breaking Ranks on Price and Have Been Punished for Doing So**

a. **Early-January 2023: Nor-Cal and Unnamed Co-conspirator #1 Dropped the Ex Vessel Prices They Were Offering After Being Warned By Defendants to Toe the Line**

ANSWER TO PARAGRAPH 343: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 344: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

b. **Mid-January 2023: Pacific Seafood Flooded the Sell-Side Markets of Non-Compliant Buyers with Cheap Crabs**

ANSWER TO PARAGRAPH 345: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 346: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 347: Bornstein lacks knowledge or information sufficient to admit or

1 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
2 basis.

3 c. **Late-December 2023: Pacific Seafood Sent Buyers, Including Non-**
4 **Cartel Members, a Warning About Paying Over the Ex Vessel Price**
5 **Set By It**

6 **ANSWER TO PARAGRAPH 348:** Bornstein lacks knowledge or information sufficient to admit or
7 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
8 basis.

9 **ANSWER TO PARAGRAPH 349:** Bornstein lacks knowledge or information sufficient to admit or
10 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
11 basis.

12 d. **Pacific Seafood Uses Its Dominance in Other Areas of Seafood to**
13 **Enforce Compliance with the Cartel's Dungeness Crab Pricing**
14 **Dictates**

15 **ANSWER TO PARAGRAPH 350:** Bornstein lacks knowledge or information sufficient to admit or
16 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
17 basis.

18 **ANSWER TO PARAGRAPH 351:** Bornstein admits that it buys and sells fish species in addition to
19 Dungeness crab. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

20 3. **As a Result, When Defendants and Other Buyers Pay Ex Vessel Prices Above**
21 **the "Fixed Price" They Seek to Hide that Fact, Which Doesn't Make**
22 **Economic Sense Absent a Price-Fixing Agreement**

23 **ANSWER TO PARAGRAPH 352:** Bornstein denies the allegations in this Paragraph.

24 **ANSWER TO PARAGRAPH 353:** Bornstein denies the allegations in this Paragraph.

25 **ANSWER TO PARAGRAPH 354:** Bornstein lacks knowledge or information sufficient to admit or
26 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
27 basis.

28 **ANSWER TO PARAGRAPH 355:** Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 356: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 357: Bornstein denies the allegations in this Paragraph.

1 **ANSWER TO PARAGRAPH 358:** Bornstein denies the allegations in this Paragraph.

2 **ANSWER TO PARAGRAPH 359:** Bornstein lacks knowledge or information sufficient to admit or
3 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
4 basis.

5 **ANSWER TO PARAGRAPH 360:** Bornstein lacks knowledge or information sufficient to admit or
6 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
7 basis.

8 **ANSWER TO PARAGRAPH 361:** Bornstein lacks knowledge or information sufficient to admit or
9 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
10 basis.

11 **ANSWER TO PARAGRAPH 362:** The California Department of Fish and Wildlife's landing records
12 speak for themselves and do not require a response. To the extent a response is required, Bornstein lacks
13 knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly
14 denies the allegations in this Paragraph on this basis.

15 **ANSWER TO PARAGRAPH 363:** Bornstein lacks knowledge or information sufficient to admit or
16 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
17 basis.

18 **ANSWER TO PARAGRAPH 364:** Bornstein lacks knowledge or information sufficient to admit or
19 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
20 basis.

21 **ANSWER TO PARAGRAPH 365:** Bornstein lacks knowledge or information sufficient to admit or
22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
23 basis.

24 **ANSWER TO PARAGRAPH 366:** Bornstein denies the allegations in this Paragraph.

25 **ANSWER TO PARAGRAPH 367:** Bornstein lacks knowledge or information sufficient to admit or
26 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
27 basis.

1 **ANSWER TO PARAGRAPH 368:** Bornstein denies the allegations in this Paragraph.

2 **ANSWER TO PARAGRAPH 369:** Bornstein admits the existence of a document containing the
3 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
4 allegations in this Paragraph.

5 **ANSWER TO PARAGRAPH 370:** Bornstein admits the existence of a document containing the
6 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
7 allegations in this Paragraph.

8 **ANSWER TO PARAGRAPH 371:** Bornstein denies the allegations in this Paragraph.

9 **ANSWER TO PARAGRAPH 372:** Bornstein lacks knowledge or information sufficient to admit or
10 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
11 basis.

12 **ANSWER TO PARAGRAPH 373:** Bornstein admits that ex vessel prices may change over time but
13 otherwise denies the allegations in this Paragraph.

14 **ANSWER TO PARAGRAPH 374:** Bornstein denies the allegations in this Paragraph.

15 **ANSWER TO PARAGRAPH 375:** Bornstein lacks knowledge or information sufficient to admit or
16 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
17 basis.

18 **ANSWER TO PARAGRAPH 376:** Bornstein lacks knowledge or information sufficient to admit or
19 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
20 basis.

21 **ANSWER TO PARAGRAPH 377:** Bornstein lacks knowledge or information sufficient to admit or
22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
23 basis.

24 G. **In Order to Defend Their Cartel Pricing, Defendants Threaten and Punish Crabbers**
25 **who Sell Crab Ex Vessel for Prices Higher than the Cartel Price**

26 **ANSWER TO PARAGRAPH 378:** Bornstein denies the allegations in this Paragraph.

27 **ANSWER TO PARAGRAPH 379:** Bornstein denies the allegations in this Paragraph.

1 **ANSWER TO PARAGRAPH 380:** Bornstein denies the allegations in this Paragraph.

2 **ANSWER TO PARAGRAPH 381:** Bornstein denies the allegations in this Paragraph.

3 **1. Pacific Seafood**

4 **ANSWER TO PARAGRAPH 400:** Bornstein admits that the seasons for Dungeness crab and for other
5 fisheries are only open certain months of the year and that some commercial fishers participate in more
6 than one fishery. Unless expressly admitted, Bornstein denies the allegations in this Paragraph.

7 **ANSWER TO PARAGRAPH 401:** Bornstein lacks knowledge or information sufficient to admit or
8 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
9 basis.

10 **ANSWER TO PARAGRAPH 402:** Bornstein admits the existence of a document containing the
11 language quoted in this Paragraph, in addition to language that is not quoted, and otherwise denies the
12 allegations in this Paragraph.

13 **ANSWER TO PARAGRAPH 403:** Bornstein lacks knowledge or information sufficient to admit or
14 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
15 basis.

16 **ANSWER TO PARAGRAPH 404:** Bornstein lacks knowledge or information sufficient to admit or
17 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
18 basis.

19 **2. Hallmark**

20 **ANSWER TO PARAGRAPH 405:** Bornstein lacks knowledge or information sufficient to admit or
21 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
22 basis.

23 **ANSWER TO PARAGRAPH 406:** Bornstein lacks knowledge or information sufficient to admit or
24 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
25 basis.

26 **ANSWER TO PARAGRAPH 407:** Bornstein lacks knowledge or information sufficient to admit or
27 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
28

1 basis.

2 **ANSWER TO PARAGRAPH 408:** Bornstein lacks knowledge or information sufficient to admit or
 3 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 4 basis.

5 **ANSWER TO PARAGRAPH 409:** Bornstein lacks knowledge or information sufficient to admit or
 6 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 7 basis.

8 **ANSWER TO PARAGRAPH 410:** Bornstein lacks knowledge or information sufficient to admit or
 9 deny the allegations in this Paragraph, , and accordingly denies the allegations in this Paragraph on this
 10 basis.

11 **ANSWER TO PARAGRAPH 411:** Bornstein lacks knowledge or information sufficient to admit or
 12 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 13 basis.

14 **ANSWER TO PARAGRAPH 412:** Bornstein lacks knowledge or information sufficient to admit or
 15 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 16 basis.

17 **ANSWER TO PARAGRAPH 413:** Bornstein lacks knowledge or information sufficient to admit or
 18 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 19 basis.

20 **3. Ocean Gold**

21 **ANSWER TO PARAGRAPH 414:** Bornstein lacks knowledge or information sufficient to admit or
 22 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 23 basis.

24 **ANSWER TO PARAGRAPH 415:** Bornstein lacks knowledge or information sufficient to admit or
 25 deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this
 26 basis.

27 **III. Buyers Who Are Not Part of the Cartel, Nonetheless, Generally Obey Its Pricing Dictates in** 28 **Order to Avoid Retaliatory Actions by Defendants**

ANSWER TO PARAGRAPH 416: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 382: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis.

ANSWER TO PARAGRAPH 383: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 384: Bornstein denies the allegations in this Paragraph.

ANTITRUST INJURY

ANSWER TO PARAGRAPH 385: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 386: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 387: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 388: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 389: Bornstein denies the allegations in this Paragraph.

CLASS ACTION ALLEGATIONS

ANSWER TO PARAGRAPH 390: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph. Bornstein denies the existence of a “class” or that any class should be certified in this case.

ANSWER TO PARAGRAPH 391: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph. Bornstein denies the existence of a “class” or that any class should be certified in this case.

ANSWER TO PARAGRAPH 392: Bornstein admits that the Second Amended Complaint purports to exclude from the alleged putative classes they propose: Defendants, their parent companies, subsidiaries and affiliates, officers, executives, and employees; Defendants’ attorneys in this case; federal government entities and instrumentalities; states or their subdivisions; and all judges and jurors assigned to this case, and denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 393: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph, and denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 394: Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 395: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 396: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 397: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 398: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 399: The allegations in this Paragraph contain legal conclusions to which no response is required. To the extent a response is required, Bornstein denies the allegations in this Paragraph and further denies that a class should be certified in this case.

ANSWER TO PARAGRAPH 400: Bornstein lacks knowledge or information sufficient to admit or deny the allegations in this Paragraph, and accordingly denies the allegations in this Paragraph on this basis and further denies that a class should be certified in this case.

DELAYED DISCOVERY/FRAUDULENT CONCEALMENT

ANSWER TO PARAGRAPH 401: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 437: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 402: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 403: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 404: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 405: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 406: Bornstein denies the allegations in this Paragraph.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

**Unlawful Agreements in Restraint of Trade in Violation of Section 1 of the Sherman Act,
15 U.S.C. § 1**

(Against All Defendants on Behalf of Plaintiffs and the Sherman Act Class)

ANSWER TO PARAGRAPH 407: Bornstein incorporates its responses to Paragraphs 1-442 as if each were fully set forth herein.

ANSWER TO PARAGRAPH 408: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 409: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 410: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 411: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 412: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 413: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 414: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 415: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 452: Bornstein denies the allegations in this Paragraph.

SECOND CAUSE OF ACTION

**Combination in Restraint of Trade in Violation of the California Cartwright Act, Cal. Bus. and
Prof. Code Sections 16720, et seq.**

(Against All Defendants on Behalf of Plaintiffs and the California Class)

ANSWER TO PARAGRAPH 416: Bornstein incorporates its responses to Paragraphs 1-452 as if each were fully set forth herein.

ANSWER TO PARAGRAPH 417: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 418: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 419: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 420: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 421: Bornstein denies the allegations in this Paragraph.

THIRD CAUSE OF ACTION

Violation of the California Unfair Competition Law, Cal. Bus and Prof. Code § 17200, et seq.

(Against All Defendants on Behalf of Plaintiff Little and the California Class)

ANSWER TO PARAGRAPH 422: Bornstein incorporates its responses to Paragraphs 1-458 as if each were fully set forth herein.

ANSWER TO PARAGRAPH 423: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 424: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 425: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 426: Bornstein denies the allegations in this Paragraph.

ANSWER TO PARAGRAPH 427: Bornstein denies the allegations in this Paragraph.

FOURTH CAUSE OF ACTION

For Declaratory Relief Under 28 U.S.C. § 2201

(Against All Defendants on Behalf of Plaintiff and All Classes)

ANSWER TO PARAGRAPH 428: Bornstein incorporates its responses to Paragraphs 1-464 as if each were fully set forth herein.

ANSWER TO PARAGRAPH 429: Bornstein denies the allegations in this Paragraph.

PRAYER FOR RELIEF

ANSWER TO PRAYER FOR RELIEF: Bornstein denies that Plaintiffs are entitled to certification of any class, declaratory judgment, damages of any kind, injunctive relief of any kind, or any of the other relief they purport to seek and accordingly, Bornstein denies each and every factual allegation contained in Plaintiffs' "PRAYER FOR RELIEF" and all of its subparts, including Paragraphs 1-6.

DEMAND FOR JURY TRIAL

ANWER TO PRAYER FOR RELIEF AND DEMAND FOR JURY: No response is necessary to Plaintiffs' demand for a jury trial.

ADDITIONAL AND AFFIRMATIVE DEFENSES

1. Without admitting the existence of any contract, combination, or conspiracy in restraint of

1 trade, and expressly denying same, by way of avoidance and as a precautionary matter Bornstein also
2 asserts the following defenses to Plaintiffs' alleged causes of action.

3 2. By alleging the matters set forth in Paragraphs 1 through 30 below, Bornstein does not
4 allege or admit that it has the burden of proof with respect to any of said matters, or that Plaintiffs have
5 properly asserted any cause of action against Bornstein.

6 3. Bornstein adopts and incorporates by reference any and all other additional or affirmative
7 defenses asserted or to be asserted by any other Defendant in this proceeding to the extent that Bornstein
8 may share in such defenses.

9 4. Bornstein has not knowingly or intentionally waived any applicable defenses and explicitly
10 reserves the right to assert and rely on such other applicable defenses as may become available or apparent
11 during discovery proceedings. Bornstein further reserves the right to amend its Answer and/or defenses
12 accordingly, and/or delete defenses that it determines are not applicable as this action proceeds up to and
13 including the time of trial.

14 5. In Paragraphs 1 through 30 below, "Plaintiffs" refers to both the named Plaintiffs and
15 members of the putative class.

16 6. Without admitting any of the allegations of the Second Amended Complaint, Bornstein
17 alleges additional and affirmative defenses as follows:

18 **FIRST DEFENSE**

19 **(Lack of Standing)**

20 7. Plaintiffs' claims are barred, in whole or in part, because Plaintiffs lack standing to sue for
21 the injuries alleged in the Second Amended Complaint.

22 8. Claims of putative class members also fail for lack of standing. Bornstein reserves the
23 right to challenge the standing of each putative class member.

24 **SECOND DEFENSE**

25 **(Failure to State a Claim)**

26 9. Plaintiffs' and putative class members' purported causes of action, and each of them,
27 considered separately or as a whole, fail to state a claim upon which relief can be granted.
28

THIRD DEFENSE**(Lack of Damages)**

10. Plaintiffs' and putative class members' claims are barred, in whole or in part, because Plaintiffs and putative class members have suffered no injury or damages as a result of the matters alleged in the Second Amended Complaint. To the extent that Plaintiffs and putative class members purportedly suffered injury or damage, which Bornstein denies, Bornstein further contends that any such purported injury or damage was not by reason of any act or omission of Bornstein.

FOURTH DEFENSE**(Failure to Mitigate Damages)**

11. Plaintiffs' and putative class members' claims are barred, in whole or in part, to the extent that Plaintiffs failed to take all necessary, reasonable, and appropriate actions to mitigate their alleged damages, if any.

FIFTH DEFENSE**(Lack of Antitrust Injury)**

12. Plaintiffs' claims are barred, in whole or in part, because they suffered no antitrust injury (i.e., a type of injury that the antitrust laws were intended to remedy). Among other things, Plaintiffs have not sustained any injury, cognizable damage, or other harm as a result of conduct alleged in the Second Amended Complaint, or any alleged harm is too remote, because, among other things, Plaintiffs did not sell Dungeness crab ex vessel to Bornstein within the limitations period, or to any ex vessel purchasers participating in the alleged conspiracy. In addition, Plaintiff Burns has never sold Dungeness crab ex vessel and does not have the legal right to assert claims that may have belonged to her deceased husband. Claims of putative class members also fail for lack of standing. Bornstein reserves the right to challenge the antitrust standing of each putative class member.

SIXTH DEFENSE**(Lack of Harm to Competition)**

13. Plaintiffs' and putative class members' claims are barred, in whole or in part, because Bornstein's actions did not lessen competition in the relevant market.

SEVENTH DEFENSE**(State Action Doctrine)**

14. Plaintiffs' and putative class members' claims are barred, in whole or in part, by immunity granted directly by state law or by the state action doctrine, *see Parker v. Brown*, 317 U.S. 341 (1943). Plaintiffs allege that Bornstein can be liable for antitrust violations because of its participation in meetings that were actively supervised by state agencies pursuant to a clearly articulated and affirmatively expressed state legislative policy to displace competition and allow fishermen and buyers to bargain and negotiate prices collectively, even though such conduct is immunized by state and federal law.

EIGHTH DEFENSE**(First Amendment and Noerr-Pennington Doctrine)**

15. Plaintiffs' and putative class members' claims are barred, in whole or in part, insofar as they challenge the exercise of rights protected by the First Amendment of the United States Constitution and by the *Noerr-Pennington* doctrine. Plaintiffs allege that Bornstein can be liable for antitrust violations because of its and/or other Defendants' participation in meetings, including meetings with other buyers or government officials, which as alleged concerned petitioning or lobbying activities that are immunized by state and federal law.

NINTH DEFENSE**(Justified and/or Pro-Competitive Conduct)**

16. Plaintiffs' and putative class members' claims are barred, in whole or in part, because all of Bornstein's conduct challenged by Plaintiffs was lawful, justified, fair, non-deceptive, expressly authorized by law, pro-competitive, consistent with industry practices, and was carried out in furtherance of Bornstein's legitimate business interests and constitutes bona fide competitive activity, the benefits of which outweigh any alleged anticompetitive effects.

TENTH DEFENSE**(Statute(s) of Limitations)**

17. Plaintiffs' and putative class members' claims are barred, in whole or in part, by the applicable statute(s) of limitations. Plaintiffs seek to recover damages from January 1, 2016 to the present.

1 However, Plaintiffs' claims are subject to a four-year statute of limitations, and those claims accrued at
2 the time Plaintiffs were paid an ex vessel price that they claim was artificially suppressed as the result of
3 an alleged conspiracy. Accordingly, Plaintiffs' claims based on ex vessel sales that occurred prior to
4 March 13, 2019 – four years before the original Complaint was filed – are time-barred.

5 **ELEVENTH DEFENSE**

6 **(Waiver and Estoppel)**

7 18. Plaintiffs' and putative class members' claims are barred, in whole or in part, by the
8 doctrines of waiver and/or estoppel. Plaintiffs delayed filing this lawsuit for an unreasonable and
9 inexcusable length of time from the time Plaintiffs knew or reasonably should have known of their claims
10 against Pacific Seafood. Plaintiffs failed to exercise diligence to discover their alleged claims, or Plaintiffs
11 had either actual or constructive knowledge of the facts they contend give rise to their alleged claims but
12 failed to assert those claims within a reasonable time. Plaintiffs were aware of the claims they allege and
13 intended to relinquish them. Bornstein has suffered prejudice in its ability to defend this case due to
14 Plaintiffs' failure to assert their alleged claims within a reasonable time.

15 **TWELFTH DEFENSE**

16 **(Laches)**

17 19. Plaintiffs' and putative class members' claims are barred, in whole or in part, by the
18 equitable doctrine of laches. Plaintiffs delayed filing this lawsuit for an unreasonable and inexcusable
19 length of time from the time Plaintiffs knew or reasonably should have known of their claims against
20 Pacific Seafood. Plaintiffs failed to exercise diligence to discover their alleged claims, or Plaintiffs had
21 either actual or constructive knowledge of the facts they contend give rise to their alleged claims but failed
22 to assert those claims within a reasonable time. Plaintiffs were aware of the claims they allege and
23 intended to relinquish them. Bornstein has suffered prejudice in its ability to defend this case due to
24 Plaintiffs' failure to assert their alleged claims within a reasonable time.

25 **THIRTEENTH DEFENSE**

26 **(Unclean Hands)**

27 20. Plaintiffs' and putative class members' claims are barred, in whole or in part, by the
28

1 doctrine of unclean hands, to the extent that Plaintiffs and putative class members have engaged in fraud
2 or willful misconduct related to the subject matter of their claims or were significantly involved in illegal
3 conduct, including illegal collective price-bargaining, price-fixing or other violations of the antitrust or
4 unfair competition laws.

5 **FOURTEENTH DEFENSE**

6 **(Independent, Unforeseeable, Superseding, and/or Intervening Cause(s))**

7 21. Plaintiffs' and putative class members' claims are barred, in whole or in part, because the
8 injuries, damages, and losses alleged in the Second Amended Complaint, none being admitted, may have
9 resulted, at least in part, from independent, unforeseeable, superseding, and/or intervening causes
10 including, but not limited to, independent market forces and actions by or decision made by other
11 individuals or entities not party to this lawsuit.

12 **FIFTEENTH DEFENSE**

13 **(Failure to State a Claim for Certification of a Class)**

14 22. Plaintiffs' class action allegations are vague, overbroad, and otherwise fail to state a claim
15 for class treatment pursuant to Rule 23 of the Federal Rules of Civil Procedure. Among other things,
16 Plaintiffs will be unable to show that common issues predominate over individual ones or that class
17 treatment will be a superior method for resolution of this case as required to certify a class under Rule
18 23(b)(3).

19 **SIXTEENTH DEFENSE**

20 **(Class Certification Improper and Unwarranted)**

21 23. This case should not be certified as a class action because Plaintiffs lack standing to assert
22 claims on behalf of the putative class and cannot satisfy the requirements of Rule 23 of the Federal Rules
23 of Civil Procedure.

24 **SEVENTEENTH DEFENSE**

25 **(Constitutional Right to Separate Trials)**

26 24. The class action claims are barred, in whole or in part, to the extent that certification of this
27 action as a class action would violate Bornstein's constitutional right to separate trials and/or to assert
28

1 separate defenses for each claim by each putative class member.

2 **EIGHTEENTH DEFENSE**

3 **(Due Process)**

4 25. The class action claims are barred, in whole or in part, to the extent that they seek to deprive
5 Bornstein of procedural and substantive safeguards, including, but not limited to, traditional defenses to
6 liability, or duplicative recovery of alleged overcharges, in violation of the due process clause of the
7 United States Constitution and analogous provisions of the California Constitution. This includes that, to
8 the extent Plaintiffs and the proposed class seek relief on behalf of purported class members who have not
9 suffered any injury or damages, the Second Amended Complaint and each of its claims for relief therein
10 violate Bornstein's rights to due process under the United States Constitution.

11 **NINETEENTH DEFENSE**

12 **(Acquiescence)**

13 26. Plaintiffs' and putative class members' claims are barred, in whole or in part, by Plaintiffs'
14 acquiescence and/or confirmation of any and all conduct and/or omissions alleged as to Bornstein in the
15 Second Amended Complaint.

16 **TWENTIETH DEFENSE**

17 **(Overlapping or Duplicative Recovery)**

18 27. Plaintiffs' and putative class members' claims are barred, in whole or in part, to the extent
19 Plaintiffs seek overlapping or duplicative recovery.

20 **TWENTY-FIRST DEFENSE**

21 **(Setoff)**

22 28. Without admitting that Plaintiffs are entitled to recover damages in this matter, Bornstein
23 is entitled to set off from any recovery Plaintiffs may obtain against Bornstein any amount paid to
24 Plaintiffs by any other Defendants who have settled, or do settle, Plaintiffs' claims in this matter.

25 **TWENTY-SECOND DEFENSE**

26 **(Failure to Allege Fraud or Fraudulent Conspiracy with Particularity)**

27 29. Plaintiffs' and putative class members' claims are barred, in whole or in part, because
28

1 Plaintiffs have failed to allege fraud or fraudulent concealment with sufficient particularity. Plaintiffs
 2 attempt to avoid dismissal of their untimely claims by including “fraudulent concealment” allegations.
 3 Fraudulent concealment is subject to the heightened pleading requirements of Rule 9(b) of the Federal
 4 Rules of Civil Procedure. Plaintiffs have not plead with particularity, and cannot prove with evidence,
 5 that Bornstein affirmatively misled Plaintiffs, and that Plaintiffs had neither actual nor constructive
 6 knowledge of the facts giving rise to their alleged claims despite exercising diligence to try to uncover
 7 those facts.

8 **TWENTY-THIRD DEFENSE**

9 **(Other Defenses)**

10 30. Bornstein reserves the right to raise any and all other defenses pending the outcome of
 11 discovery.

12 **BORNSTEIN’S PRAYER FOR RELIEF**

13 WHEREFORE, Bornstein prays for relief as follows:

- 14 1. That the Court award Bornstein judgment in its favor on all of Plaintiffs’ claims and dismiss
 15 this action with prejudice;
- 16 2. That the Court award Bornstein recovery of its attorney’s fees, costs, and disbursements;
 17 and
- 18 3. That the Court award Bornstein all other and further relief deemed just and proper.

19 Bornstein hereby demands a trial by jury of all aspects of the case so triable.

20
 21 Dated: February 21, 2025

Respectfully submitted,

22 /s/ J. Timothy Hobbs

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